

<sup>1</sup> Order (July 31, 2003).

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the evidentiary record compiled to date and the respondent's brief, the Board makes the following findings of fact and conclusions of law:

At a preliminary hearing held on July 31, 2003 before Administrative Law Judge John D. Clark, claimant presented the medical records and reports from several physicians, including Dr. Pedro A. Murati and Dr. Paul S. Stein. Dr. Murati stated that the claimant's diagnosis was "within all reasonable medical probability an exacerbation of preexisting condition, occurring on 2/7/03, during the patient's employment with BBC Telecom."<sup>2</sup> Dr. Stein reported after his examination of the claimant on May 20, 2003, that he found it very unusual that these symptoms are the same as those the claimant reported he manifested after an initial back injury which ultimately lead to surgery in 1996. Dr. Stein said that "two traumatic episodes of supposedly dense paraplegia in the same individual without any determinable structural basis require a great leap of faith to be credible. A much more likely explanation would be psychogenic paralysis or malingering."<sup>3</sup> However, on June 4, 2003, Dr. Stein wrote in his follow up report that he could not "rule out irritation of the nerve root on the left side as [a] result of mechanical changes from this recent injury."<sup>4</sup>

The inconsistencies within both the claimant's relating of his symptoms and the history of the injury do not form a sufficiently convincing body of evidence so as to refute the simple fact that there was, indeed, an accident at work, and the opinions of two treating physicians relating at least some of the claimant's symptoms to that accident, irrespective of their suspicions regarding the claimant's complaints.

**WHEREFORE**, Administrative Law Judge John D. Clark preliminary hearing Order dated July 31, 2003 is affirmed.

**IT IS SO ORDERED.**

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<sup>2</sup> P.H. Trans., Cl. Ex. 2.

<sup>3</sup> P.H. Trans., Cl. Ex. 3 at 5 and 6.

<sup>4</sup> P.H. Trans., Cl. Ex. 3 at 1.

Dated this \_\_\_\_ day of November 2003.

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BOARD MEMBER

- c. Joseph Seiwert, Attorney for Claimant  
Gary A. Winfrey, Attorney for Respondent  
Frank A. Caro, Attorney for Fund  
John D. Clark, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director